

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jose Luna Cobarruvias, #342601,)	C/A No. 4:12-3096-DCN-TER
)	
Petitioner,)	
)	
vs.)	ORDER
)	
Warden Leroy Cartledge,)	
)	
Respondent.)	
)	

Jose Luna Cobarruvias (“Petitioner”) filed a petition under 28 U.S.C. § 2254 for writ of habeas corpus. Petitioner is a prisoner in state custody. Therefore, in the event that a limitations issue arises, Petitioner shall have the benefit of the holding in *Houston v. Lack*, 487 U.S. 266 (1988) (prisoner's pleading was filed at the moment of delivery to prison authorities for forwarding to District Court). Under Local Civil Rule 73.02(B)(2) D.S.C., pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

PAYMENT OF THE FILING FEE:

Petitioner has requested to proceed without prepaying the filing fee by filing an Application to Proceed without Prepayment of Fees and Affidavit (Form AO-240) which is construed as a Motion for Leave to Proceed *in forma pauperis*. Based on a review of the Motion, Petitioner’s request to proceed *in forma pauperis* is **granted**.

TO THE CLERK OF COURT:

The Clerk of Court is directed to remove from the docket “Atty Gen Alan Wilson” as a respondent, because a prisoner’s custodian, the warden in this case, is the proper respondent in a habeas corpus action. *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004). The Clerk of Court shall not serve the § 2254 Petition upon Respondent because the Petition is subject to dismissal.

The Clerk of Court shall not enter any change of address submitted by Petitioner which directs that mail be sent to a person other than Petitioner unless that person is an attorney admitted to practice before this court who has entered a formal appearance.

TO PETITIONER:

Petitioner must place the Civil Action Number (C/A No. 4:12-3096-DCN-TER) listed above on any document filed in this case. **Any future filings in this case must be sent to: P.O. Box 2317, Florence, South Carolina 29503.** All documents requiring Petitioner’s signature shall be signed with Petitioner’s full legal name written in Petitioner’s own handwriting. *Pro se* litigants

shall *not* use the “s/typed name” format used in the Electronic Case Filing System. In all future filings with this court, Petitioner is directed to use letter-sized (8½ inches x 11 inches) paper only, to write or type text on one side of a sheet of paper only and not to write or type on both sides of any sheet of paper. Petitioner is further instructed not to write to the edge of the paper, but to maintain one inch margins on the top, bottom, and sides of each paper submitted.

Petitioner is a *pro se* litigant. Petitioner's attention is directed to the following important notice:

You are ordered to always keep the Clerk of Court advised **in writing (P.O. Box 2317, Florence, South Carolina 29503)** if your address changes for any reason, so as to assure that Orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this order, you fail to meet a deadline set by this court, **your case may be dismissed for violating this order.** Therefore, if you have a change of address before this case is ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address and providing the court with the docket number of all pending cases you have filed with this court. Your failure to do so will not be excused by the court.

IT IS SO ORDERED.

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

November 29, 2012
Florence, South Carolina